

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
RAYFIELD COMMUNICATIONS, INC.
Informal Petition to Investigate and Remedy the
Grant of Application of Racing Radios Inc. for
New Industrial/Business Private Land Mobile
Radio Station at Bolivar, Missouri
and
RACING RADIOS, INC.
Licensee of Conventional Industrial/Business Pool
Radio Service Station WPQA386, Bolivar,
Missouri

MEMORANDUM OPINION AND ORDER

Adopted: November 5, 2001

Released: November 8, 2001

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. Rayfield Communications, Inc. (Rayfield) requests Commission action to investigate and remedy the above-captioned authorization granted to Racing Radios, Inc. (Racing Radios). For the reasons set forth below, we grant Rayfield's informal request. Thus, as discussed in further detail herein, we hereby initiate a proceeding to modify Racing Radios' license to change one of its authorized frequency pairs.

II. BACKGROUND

2. Frequency coordination in the Private Land Mobile Radio (PLMR) Services is the process by which a private entity certified by the Commission recommends the most appropriate frequencies for applicants in designated radio services. In 1986, the Commission adopted frequency coordination rules and procedures in an effort to maximize service to the public by assuring that the assignment and management of the PLMR spectrum is performed in an efficient and effective manner. The Commission

1 Letter dated and received May 17, 2000 from John Rayfield, Jr. of Rayfield Communications, Inc., to Michael Regiec, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Rayfield Letter).

2 Frequency Coordination in the Private Land Mobile Radio Services, Report and Order, PR Docket No. 83-737, 103 FCC 2d 1093 (1986).

3 Id. at 1094-95 ¶ 2.

has stated that accurate information is fundamental to its ability to review effectively the frequency recommendations made by FCC-certified frequency coordinators in connection with the Commission's licensing determinations.⁴ A fundamental aspect of frequency coordination, in any radio service, is an accurate determination by a FCC-certified coordinator as to whether the proposed operations potentially will cause harmful interference to existing co-channel or adjacent licensees.⁵

3. In 1997, the Commission allowed centralized trunking in the PLMR bands between 150 MHz and 512 MHz.⁶ The Commission emphasized that trunking would be permitted only in those areas where exclusivity is recognized by the Commission or where an applicant/licensee has obtained the consent of all licensees whose service areas overlap a circle with a radius of seventy miles from the proposed trunked system's base station.⁷ In 1999, the Commission provided applicants with an alternate means of obtaining an authorization for a trunked system by obtaining concurrence whenever the 19 dBu (UHF) or 21 dBu (VHF) interference contour from a proposed trunked station intersects the 37 dBu service contour (UHF) or 39 dBu service contour (VHF) of any existing co-channel or adjacent channel station.⁸ In 2000, the Commission modified the definition of trunked systems authorized in the 150-512 MHz bands.⁹ The Commission has stated that the service area of a trunked licensee "shall be protected against co-channel and adjacent channel interference."¹⁰

4. On November 9, 1999, Racing Radios filed an application for authorization to operate an Industrial/Business Pool conventional (IG) station in the Bolivar, Missouri area.¹¹ The Personal Communications Industry Association (PCIA), a FCC-certified frequency coordinator, submitted Racing Radios' application, with a frequency recommendation, to the Licensing and Technical Analysis Branch (Branch) of the Public Safety and Private Wireless Division.¹² On April 18, 2000, the Branch granted Racing Radios' application to operate conventional Industrial/Business Pool Station WPQA386 in Bolivar,

⁴ *Id.* at 1148 ¶ 111, 1150 ¶ 116.

⁵ See generally American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 12416, 12422-23 ¶¶ 13-15 (WTB PSPWD 2001).

⁶ In the Matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd 14307, 14337-38 ¶¶ 56-59 (1997).

⁷ *Id.*

⁸ In the Matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Third Memorandum Opinion and Order*, PR Docket No. 92-235, 14 FCC Rcd 10922, 10926-27 ¶¶ 6-9 (1999) (*Refarming Third MO&O*).

⁹ 47 C.F.R. § 90.187. The Commission's Part 90 Biennial review proceeding amended Section 90.187, but did not change the substance of the rule provision at issue here. See 1998 Biennial Regulatory Review, 47 C.F.R Part 90, Private Land Mobile Radio Services, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 98-182, 15 FCC Rcd 16673 (2000).

¹⁰ *Refarming Third MO&O*, 14 FCC Rcd at 10931 ¶ 20.

¹¹ File No. 9911D133659.

¹² See FAC # 993050549.

Missouri on several frequencies, including frequency pair 451.2875/456.2875 MHz. The base station frequency was authorized to operate at two watts transmitter output power.¹³

5. By letter received May 17, 2000, Rayfield requested that the Commission investigate and remedy the apparently erroneous license grant to Racing Radios.¹⁴ Rayfield alleged procedural flaws in the filing of Racing Radios' application and cited concerns over potential interference to the operations of Rayfield's Trunked (YG) Station WPPG878, Bolivar, Missouri.¹⁵ Specifically, Rayfield contends that Racing Radios' operations on frequency pair 451.2875/456.2875 MHz pose a risk of interference to Rayfield's operations because Station WPQA386 does not afford the required co-channel interference protection to the subject co-channel facilities licensed to Rayfield.¹⁶ In support of its interference arguments, Rayfield included its interference analysis showing that Racing Radios' base station was located within the service contour of Station WPPG878.¹⁷ Therefore, Rayfield urges that we should investigate and remedy the license grant to Racing Radios.

6. On March 2, 2001, the Branch requested that PCIA respond to Rayfield's interference analysis of Racing Radios' station and propose a solution, if the Racing Radios application had been incorrectly coordinated.¹⁸ By letter dated March 23, 2001, PCIA stated that there might be a co-channel license that was not accounted for and proposed as a solution that the Racing Radios license for Station WPQA386 be modified by changing the frequency pair 451.2875/456.2875 MHz to 451.5125/456.5125 MHz.¹⁹

III. DISCUSSION

7. We believe that Rayfield's request is most properly characterized as an informal request for Commission action under Section 1.41 of the Commission's Rules.²⁰ Rayfield argues that an investigation and remedy is warranted because the Racing Radios station does not afford the required interference protection to Rayfield's station in the Bolivar, Missouri area.²¹ PCIA admits "that there may be a co-channel license that was not accounted for" and recommends modifying Racing Radios' license to resolve the problem.

¹³ See License for Station WPQA386.

¹⁴ See Rayfield Letter.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Letter dated March 2, 2001 from Mary Shultz, Chief, Licensing and Technical Analysis Branch, Federal Communications Commission, to PCIA.

¹⁹ Letter dated March 23, 2001 from PCIA to Mike Regiec, Licensing and Technical Analysis Branch, Federal Communications Commission.

²⁰ 47 C.F.R. § 1.41.

²¹ See Rayfield Letter.

8. Based upon our analysis, we conclude that the Racing Radios application should not have been coordinated because the proposed operations did not provide the requisite interference protection to the Rayfield's operations. PCIA has proposed changes to the Racing Radios license designed to eliminate interference to the earlier-licensed station. We believe that Section 316 of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.²² Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.²³ In this connection, we note that the proposed modification would serve the public interest by preserving the existing coverage areas of the affected party and preventing harmful interference, while not unduly disrupting Racing Radios' operations.

9. As discussed above, the coordination of Racing Radios' application was defective. Thus, we believe that a modification of the subject Racing Radios license to change its authorized frequencies for Station WPQA386 is appropriate to prevent harmful interference to Rayfield. In accordance with Section 1.87(a) of the Commission's Rules,²⁴ we will not issue a modification order until Racing Radios has received notice of our proposed action and has had an opportunity to interpose a protest. To protest the modification, Racing Radios must, within thirty days of the release date of this *Memorandum Opinion and Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554.²⁵ If no protest is filed, Racing Radios will have waived its right to protest the modification and will be deemed to have consented to the modification.

IV. CONCLUSION

10. For the reasons stated above, we conclude that the coordination of Racing Radios' application was defective. As a result, we believe that the license grant to Racing Radios was defective. Accordingly, we accept PCIA's proposal to modify Racing Radios' license for Station WPQA386 by changing the frequency pair 451.2875/456.2875 MHz to 451.5125/456.5125 MHz in order to protect co-channel licensees from harmful interference.

V. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. §

²² 47 U.S.C. § 316(a)(1).

²³ 47 U.S.C. § 316(a). Section 316(a) requires that we notify the affected station(s) of the proposed modification(s) and the public interest reasons for the action, and afford at least 30 days to respond.

²⁴ 47 C.F.R. § 1.87(a).

²⁵ This address should be used only for documents filed by United States Postal Service. Documents delivered by Federal Express or any other express mail service should be addressed to the Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20024. Hand-delivered or messenger-delivered documents are accepted only at our Capitol Heights Facility located at 9300 East Hampton Drive, Capitol Heights MD 20743. See Clarification on FCC's Announced Changes in Filing Procedures, *Public Notice*, DA 01-2451 (rel. Oct. 18, 2001); FCC Announces Change in Filing Location for Paper Documents, *Public Notice*, DA 01-2436 (rel. Oct. 17, 2001).

1.41, the Informal Petition to investigate and remedy the grant of the license for Station WPQA386, submitted by Rayfield on May 17, 2000, IS GRANTED to the extent indicated above.

12. IT IS PROPOSED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, the license for Private Land Mobile Radio Service Station WPQA386, held by Racing Radios, Inc., BE MODIFIED by changing the frequency pair 451.2875/456.2875 MHz to 451.5125/456.5125 MHz.

16. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested, to Racing Radios, Inc., 309 Agnew Drive, Suite C, Forest, GA 30297-2606.

17. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau